

Amend **SB 2194** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.110 to read as follows:

Sec. 39.110. WHOLESALE INDEXED PRODUCTS PROHIBITED. (a) In this section, "wholesale indexed product" means a retail electric product in which the price a customer pays for electricity includes a direct pass-through of real-time settlement point prices determined by the independent organization certified under Section 39.151 for the ERCOT power region.

(b) An aggregator, a broker, or a retail electric provider may not offer a wholesale indexed product to a residential or small commercial customer.

(c) An aggregator, a broker, or a retail electric provider may enroll a customer other than a residential and small commercial customer in a wholesale indexed product only if the provider, aggregator, or broker obtains before the customer's enrollment an acknowledgment signed by the customer that the customer accepts the potential price risks associated with a wholesale indexed product.

(d) An acknowledgment required by Subsection (c) must include the following statement, in clear, boldfaced text:

"I understand that the volatility and fluctuation of wholesale energy pricing may cause my energy bill to be multiple times higher in a month in which wholesale energy prices are high. I understand that I will be responsible for charges caused by fluctuations in wholesale energy prices."

(e) An acknowledgment required by Subsection (c) may be included as an addendum to a contract.

(f) A retail electric provider that provides a wholesale indexed product to a customer must keep on file the acknowledgment required by Subsection (c) for each customer while the customer is enrolled with the retail electric provider in the wholesale indexed product.

SECTION 2. Section 39.112, Utilities Code, is amended to read as follows:

Sec. 39.112. NOTICE OF EXPIRATION AND PRICE CHANGE. (a) In

this section, "fixed rate product" means a retail electric product with a term of at least three months for which the price for each billing period, including recurring charges, does not change throughout the term of the contract, except that the price may vary to reflect actual changes in transmission and distribution utility charges, changes to ERCOT or Texas Regional Entity administrative fees charged to loads, or changes to federal, state, or local laws that result in new or modified fees or costs that are not within the retail electric provider's control.

(b) A retail electric provider shall provide a residential customer who has a fixed rate product with at least three ~~[one]~~ written notices ~~[notice]~~ of the date the fixed rate product will expire. The notices ~~[notice]~~ must be provided during the last third of the contract period and in intervals that allow for, as practicable, even distribution of the notices throughout the last third of the contract period. The final notice for a contract with a period of more than four months must be provided at least 30 days before the date that the contract will expire. The final notice for a contract with a period of less than four months must be provided at least 15 days before the date that the contract will expire.

(c) The retail electric provider must provide each notice required by Subsection (b) to the customer by mail at the customer's billing address, unless the customer has opted to receive communications electronically from the retail electric provider.

(d) If the retail electric provider has access to customer contact information that allows the provider to send the customer a text message or call the customer, and the customer has agreed to receive notices by text message or call, the retail electric provider may provide additional notice to the customer by text message or call of the date the fixed rate product will expire. Notice provided by text message or call does not constitute notice under Subsection (b).

(e) A notice required by Subsection (b) must:

(1) for a notice provided by mail, ~~[be sent to the customer's billing address by mail at least 30, but not more than 60, days preceding the date the contract will expire,~~

~~[(2) be sent to the customer's e-mail address, if~~

~~available to the provider and if the customer has agreed to receive notices electronically, at least 30, but not more than 60, days preceding the date the contract will expire,~~

~~[(3)]~~ include in a manner visible from ~~[on]~~ the outside of the envelope in which the notice is sent, a statement that reads: "Contract Expiration Notice. See Enclosed.";

(2) ~~[(4)]~~ if included with a customer's bill, be printed on a separate page or included as a separate document; ~~[and]~~

(3) ~~[(5)]~~ include a description of any fees or charges associated with the early termination of the customer's fixed rate product; and

(4) describe any renewal offers the retail electric provider chooses to make available to the customer and identify methods by which the customer may obtain the contract documents for each of the offered products.

(f) The final notice provided under Subsection (b) must include the pricing terms for the default renewal product required by Subsection (h).

(g) ~~[(e)]~~ A retail electric provider shall include on each billing statement, in boldfaced and underlined text, the end date of the fixed rate product.

(h) Except as provided by Subsection (j), if a customer does not select another retail electric product before the expiration of the customer's contract term with a retail electric provider, the provider shall automatically serve the customer through a default renewal product that the customer may cancel at any time without a fee. The default renewal product must be:

(1) a month-to-month product in which the price the customer pays for electricity may vary between billing cycles; and

(2) based on clear terms designed to be easily understood by the average customer.

(i) A retail electric provider shall include in each contract for service the terms of the default renewal product that the customer will automatically be enrolled in under Subsection (h) if the customer does not select another retail electric product before the expiration of the contract term.

(j) If a retail electric provider does not provide notice of

the expiration of a customer's contract with the provider in accordance with this section and the customer does not select another retail electric product before the expiration of the customer's contract term with the provider, the retail electric provider must continue to serve the customer under the pricing terms of the fixed rate product contract until:

(1) the provider provides notice of the expiration of the contract in accordance with this section; or

(2) the customer selects another retail electric product.

(k) ~~[(d)]~~ No provision in this section shall be construed to prohibit the commission from adopting rules that would provide a greater degree of customer protection.

SECTION 3. The changes in law made by this Act apply only to an enrollment or reenrollment of a customer in a retail electric product that is executed on or after the effective date of this Act. An enrollment or reenrollment of a customer in a retail electric product that is executed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2021.